



August 4, 2004 BZA

**STAFF'S  
REQUEST ANALYSIS  
AND  
RECOMMENDATION**

**04AN0313**

**Harry Palmore**

**Bermuda Magisterial District  
4515 Windward Drive**

**REQUEST:** A thirty (30) foot Variance to the forty (40) foot side yard setback requirement for a detached garage having more than one (1) story in an Agricultural (A) District.

**RECOMMENDATION**

**Recommend denial of this Variance for the following reasons:**

- A.** Staff finds there are no extraordinary circumstances or conditions applying to this property which do not apply generally to all other properties in the immediate area.
- B.** The applicant has provided no information that there are such unusual circumstances about this property that adherence to the required setback would cause undue hardship.

**GENERAL INFORMATION**

**Location:**

This property is known as 4513 Windward Drive. Tax ID 790-638-2750 (Sheet 34).

**Existing Zoning:**

**Agricultural (A)**

Size:

0.7 acre

Existing Land Use:

Residential

Adjacent Zoning and Land Use:

North - R-7; Residential  
South - A; Residential and vacant  
East - A; Vacant  
West - A; Residential and vacant

Utilities:

Public water and sewer

General Plan:

(Southern and Western Area Plan)

Residential  
(2.51- 4.0 units per acre)

DISCUSSION

The applicant is proposing to construct a detached garage having more than one (1) story. The garage will be located ten (10) feet from the side property line. The Zoning Ordinance requires a forty (40) foot side yard setback; therefore the applicant is requesting a thirty (30) foot Variance (see attached plat).

The applicant provides the following justification in support of this request:

The thirty (30) foot Variance is being requested to build a detached garage with a finished loft on the second floor. The garage is to be built on parcel 1 behind my residential lot 15. I agree that parcel 1 and lot 15 will have to be sold together. This Variance is requested due to the unique nature of the property. Although parcel 1 is almost one (1) acre in size, the back half of the parcel is wooded with a steady decline to a small creek at the back of the property. The front portion of the parcel has the drain field. The distribution box is located fifty-five (55) feet from the front and fifty-three (53) feet from the right side of the property. The drain lines run to the left and back. The above two factors make it impractical to place the garage on the parcel where it complies with the forty (40) foot side yard setback requirements.

Staff visited the site which is located in the Greenbriar Subdivision. Staff has reviewed the attached site plan and the applicant's proposal. Staff finds that there are no extraordinary

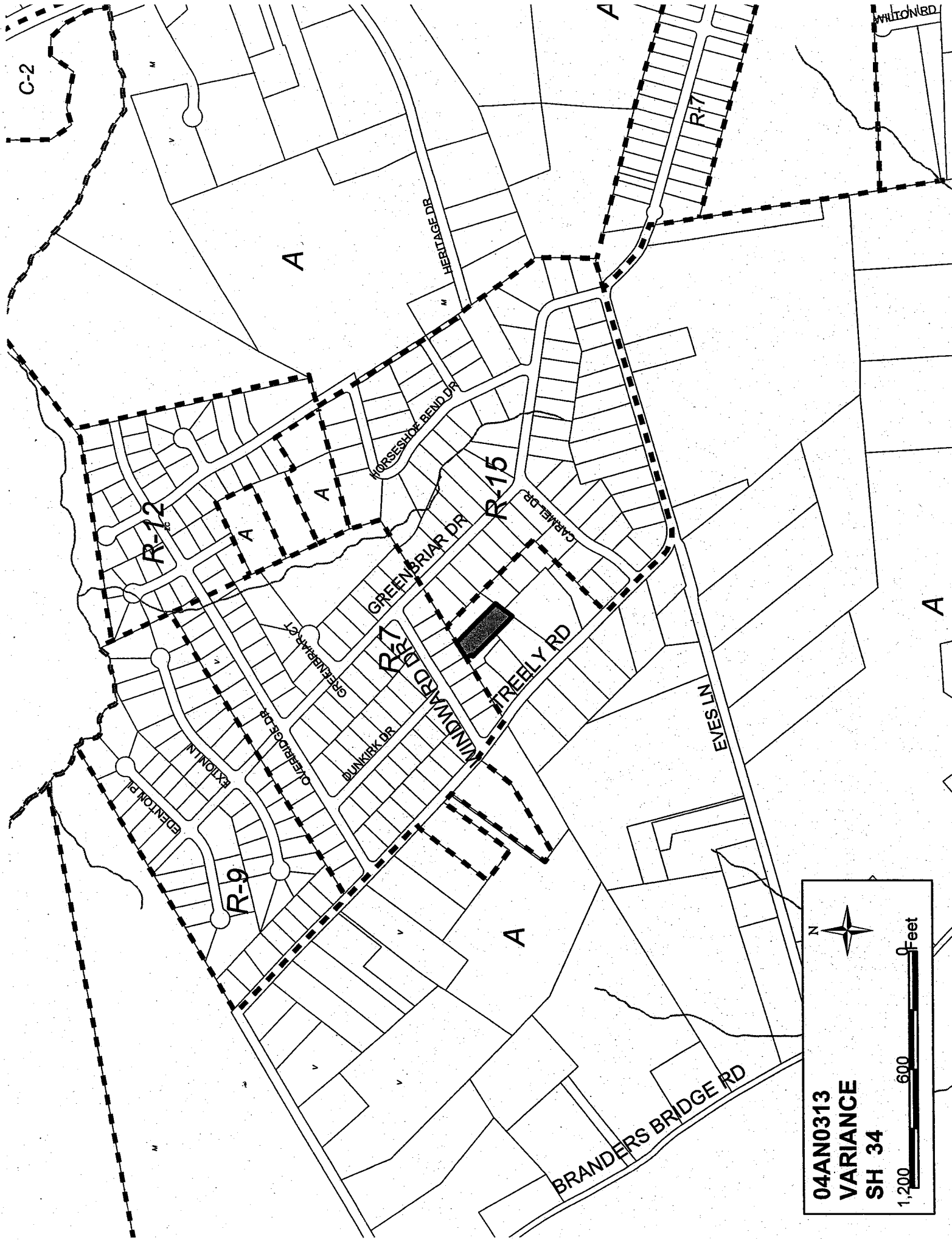
circumstances, conditions or physical features that would prohibit adherence to the required setbacks. Therefore, the test for Variances as specified in the Zoning Ordinance (Section 19-21 (b)) has not been met. The applicant could reduce the pitch of the roof making the garage a one (1) story which would reduce the required forty (40) foot setback requirement, to a twenty (20) foot setback requirement, move the garage over ten (10) feet, thereby meeting the setback requirements.

Because an alternative exists and the applicants have not provided evidence of extraordinary conditions, staff does not support this request.

Should the Board feel that this request has merit, it should be applicable to the proposed garage only. Other structures could be constructed to this reduced setback. Therefore, staff recommends if this request is approved, it be subject to the following condition:

CONDITION

This Variance shall be for the garage as depicted on the plat attached to staff's report.



04AN0313  
VARIANCE  
SH 34



